



CITY COUNCIL

Committee of the Whole

Monday, May 12, 2008

Council Office

5:00p.m.

Agenda

- | | | |
|------|-------------------------------------------|-----------|
| I. | Canvassing & Solicitation Ord (T. Butler) | 5:00 p.m. |
| II. | LRA Ordinance Review & LRA Appointments | 5:30 p.m. |
| III. | Disruptive Tenant Ordinance Review | 6:00 p.m. |
| IV. | Agenda Review | 6:15 p.m. |

BILL NO. _____ 2008
AN ORDINANCE

AN ORDINANCE AMENDING THE CITY OF READING CODE OF ORDINANCES
CHAPTER 6 CONDUCT BY CREATING A NEW PART 8 CANVASSING AND
SOLICITATION, REQUIRING A PERMIT FOR CANVASSING AND SOLICITATION TO
PROTECT THE SAFETY, HEALTH AND WELFARE OF THOSE WHO LIVE AND VISIT THE
CITY OF READING.

Whereas, there is no absolute right under the United States Constitution to enter on the premises of another and police powers permit reasonable regulation for health and safety, and

Whereas, unlicensed solicitation and canvassing by unregistered solicitors and canvassers creates health and safety hazards for City residents and visitors and exposes residents and visitors to fraud; and

Whereas, the City of Reading City Council enacts this legislation to provide reasonable and fair regulation for solicitation and canvassing to protect residents and visitors against crime and undue annoyance.

NOW THEREFORE, THE CITY OF READING CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 6 Conduct by creating a new Part 8 – Canvassing and Solicitation to protect the public safety, health and welfare of all in our community as attached in Exhibit A.

SECTION 2. This Ordinance will become effective in ten (10) days when approved in accordance with Section 221 of the City of Reading Home Rule Charter.

Enacted by Council _____, 2008

President of Council

Attest:

City Clerk

(Pension Administrator & Council Staff)

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: _____

Vetoed by Mayor: _____

Date: _____

EXHIBIT A

CHAPTER 6

PART 8 CANVASSING AND SOLICITATION

SECTION 6-801. PURPOSE

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, and general welfare by regulating solicitation and canvassing. The citizens and visitors to the City of Reading are subject to unregulated solicitation and canvassing by sometimes questionable people and organizations in a hazardous manner and in vulnerable locations such as their own residence. It is the purpose of this Ordinance to regulate solicitation and canvassing in the City of Reading to protect the public health, safety and welfare.

SECTION 6-802. DEFINITIONS

A. Definitions. The following words as used in this Ordinance shall have the following meanings:

1. *Applicant* shall mean the person or organization seeking a permit.
2. *Canvassing* shall mean the act of going from residence to residence throughout the City of Reading to solicit votes or orders; to conduct a survey (public opinion) or poll; or, to conduct an uninvited detailed discussion, whether on foot or by use of vehicle.
3. *Chief of Police* shall mean the Chief of the City of Reading Police Department or his designee.
4. *Political Candidate*: A person seeking or wanting to be considered for a political office including "write-in candidates".
5. *Solicitation* shall mean the act of going from residence to residence asking for donations of money; tickets for money and coupon books for money; or, selling items for money with or without the distribution by such Solicitor or Canvasser of literature, samples, free gifts or other materials within the City of Reading and whether on foot or by use of vehicle.
6. *Solicitation and Canvassing Period* shall mean a period not to exceed seven calendar days.
7. *Organizer* shall mean the person responsible for organizing the solicitation or canvassing activity and whose name shall be on the application.
8. *Permit* shall mean written authorization dispensed by the Chief of Police or his designee which allows the solicitation and canvassing activity and specifies the given solicitation and canvassing period.
9. *Recognized Youth Organization* shall mean a national, state or local youth group having specific structure, responsibilities and united for a particular purpose.
10. *Residence* shall mean and include every separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.

SECTION 6-803. PERMIT REQUIREMENTS

A. General. The City of Reading prohibits any person or organization from conducting solicitations and canvassing of residences without a permit. It shall be a violation of this Ordinance to engage in solicitation and canvassing without a permit or otherwise not in accordance with the terms of this Ordinance and the permit requirement.

B. Permit Required. Every person, prior to engaging in activity as a Solicitor or Canvasser, whether acting on his or her own behalf, as principal, or as the employee or agent of another, shall apply for and obtain a permit as hereinafter provided:

1. **Application.** All requests for a permit must be provided to the Chief of Police or his designee at least ten (10) business days but no more than sixty (60) calendar days prior to the date of the requested activity. The Chief of Police or his designee shall issue a decision within three business days of the application being filed. The Chief of Police, for good cause shown, shall have the authority to consider any application under this section which is filed less than ten business days before the date such event is proposed to be conducted, provided the Chief of Police or his designee shall have adequate time to conduct the investigation. An application and permit shall be required for each solicitation and canvassing period.

2. **Required Information.** All applications for permits must include at a minimum the following information and shall be signed by the Organizer(s):

- (1) Name(s). The name(s) of the person(s) making application for solicitation or canvassing within the City of Reading;
- (2) Address. The permanent address and local address, if any, of each Organizer;
- (3) Physical features of applicant(s) including height, weight, age, sex, race, and social security number of each for background check purposes;
- (4) Photocopy of driver's license or other official photo identification of each Organizer;
- (5) Description of the proposed solicitation or canvassing activity and purpose for activity (i.e., use of funds);
- (6) Specific location(s) for solicitation or canvassing activity, including specific houses targeted, and number of solicitors or canvassers at each such location;
- (7) Dates and times of solicitation or canvassing activity;
- (8) Names of all participants proposed to be solicitors or canvassers, and their ages. If any solicitors or canvassers are under 18, the names and addresses of adult supervisors; one adult supervisor per four solicitors or canvassers under age 18 is required;
- (9) The application shall contain a statement that the submission of the application shall be considered to be consent by each Organizer for a background check to be run by the Chief of Police at his discretion on any person named on the application and a statement that all information contained thereon is true and correct; and
- (10) Any additional information the Chief of Police may find reasonably necessary for a fair determination as to whether the proposed event will endanger public health, safety or welfare.

C. Investigation. The Chief of Police or his designee shall review the application for completeness and compliance with the terms of this Ordinance. The Chief of Police shall check to see if there are any records of complaints against the applicant in the records of the Police Department or the NCIC crime database system. The Chief of Police may, at his discretion, conduct a background check of the Organizers. The Chief of Police may, at his discretion, make any other inquiries he deems necessary for the investigation of the applicant or the Organizers.

D. Decision. The Chief of Police may grant, deny, or grant a restricted permit. The Chief of Police shall issue a permit as provided in this Ordinance from a consideration of the application and from such information as may otherwise be obtained, unless he finds that any or all of the following apply:

1. The Applicant or any Organizers or participants have any criminal complaints pending against them, or have a criminal record involving crimes of theft, fraud, or other moral turpitude;
 2. The Chief of Police has reason to believe that the request for the solicitation or canvassing activity is of a fraudulent nature;
 3. The conduct of the solicitation or canvassing activity is contrary to the public's health, safety or general welfare; or
 4. The application was not complete, or the application or permits requested are not fully in compliance with the requirements of this Ordinance.
- The Chief of Police shall indicate on the application review form all reasons for rejection of the application.

E. Location and Times

1. Prohibited Times. No solicitation or canvassing shall be allowed before 9:00 a.m. or after 7:00 p.m. Sunday through Saturday.

2. Locations. Solicitation and Canvassing shall be permitted in all areas where residential use is permitted.

3. Duration. A solicitation or canvassing activity may last no longer than seven days. A separate permit shall be required for each additional solicitation and canvassing period.

F. Permit. The Chief of Police shall indicate on the permit the permitted activities, locations, and duration of the permit. The Chief of Police may approve a smaller or shorter duration than requested; may reduce the number of solicitors or canvassers; may approve a different location; or, may generally make any other adjustments he believes necessary to the application to serve the public health, safety and welfare. The signed permit is to be kept on-site and in the possession of all Organizers at all times that solicitation or canvassing is underway. If multiple locations are involved, a permit copy shall be kept at each location by each Organizer. Permits shall be displayed at the request of any citizen or law enforcement personnel.

G. Non-Content Based Review. The content of the message of any applicant, their beliefs, the identification of the participants, or any other matter which does not directly impact on the public health, safety, and welfare, shall not be relevant to the determination of whether to grant or deny a permit.

H. Special Requirements.

(1) There shall be no physical contact by the solicitor or canvasser with anyone being solicited or canvassed without the person's consent. This shall be deemed to include not only physical force or restraint but also the act of placing objects on the person or clothing of the solicitee.

(2) Solicitors and canvassers shall not occupy a fixed location on any public sidewalk or street. There shall be no interference with or blocking of movement or any pedestrian or vehicle by any solicitor or canvasser.

(3) A solicitor or canvasser shall not be permitted to make or cause to be made any loud noise to attract attention or for any other purpose. Such noises may include, but shall not be limited to, shouting, use of loud speakers, horns, drums, musical instruments or other sound devices.

(4) A solicitor or canvasser who is conducting such activity on private property, which is not open to the public, shall immediately leave such premises on request of any lawful occupant thereof.

SECTION 6-804. RESPONSIBILITY FOR PAYMENT OF TAXES. It shall be the responsibility of every solicitor or canvasser given a permit under this Ordinance to pay to the City of Reading Tax Administration the proper taxes, including business privilege and income taxes, for himself or any employee on income earned as a result of the soliciting or canvassing.

SECTION 6-805. APPEALS

A. Appeals. Any person aggrieved by the denial or restriction of a permit shall have the right to appeal the denial or restriction to the City of Reading City Council. A written appeal shall be filed with the City Clerk within ten (10) days after the denial or restriction is received.

B. Procedure. The Chief of Police shall appear and present his case and evidence as to why the application was denied. The Applicant shall have the opportunity to present his or her case and evidence in support of the application. The hearing shall be conducted as a evidentiary proceeding.

C. Standard of Review. City Council, keeping in mind the purpose of this Ordinance, the substantive provisions, and giving deference to the judgment of the Chief of Police, shall make a determination as to whether the denial or restriction was lawful and in the interests of the public health, safety and welfare, or whether the permit should be issued or modified. If the latter, City Council shall enter an order providing guidance as to the location, time, persons, and other criteria of this Ordinance. City Council shall render a decision within ten (10) days after the hearing.

SECTION 806.VIOLATIONS, ENFORCEMENT, PENALTIES

A. Revocation of Permit. The Chief of Police or his designee is hereby authorized to revoke a permit issued under this Ordinance under the following circumstances:

1. If the Organizer is convicted of a felony during the solicitation and canvassing period;
2. If the Chief of Police or his designee determines that the goods or items being sold or distributed are unsafe, harmful or misrepresented to the public;
3. If it is determined that the Organizer has given false information on the application;
4. If the Organizer fails to abide by any of the provisions of this Ordinance; or
5. If the Chief of Police becomes aware of illegal or unauthorized activity and the revocation of said permit is required in the best interests of public health, safety and welfare.

B. Persons soliciting without a permit or in violation of the permit shall be cited with a citation for prosecution in the Magistrate District Judges Court, in accordance with the requirements of law for such citations. All City of Reading Police Officers are authorized to issue such citations.

C. Any person, organization, business or entity in violation of the provisions of this Ordinance is subject to a fine of up to three hundred dollars (\$300.00) per day per violation per individual participant. The minimum fine shall be \$50.00 per day per violation per individual participant.

D. Any person, organization, business or entity found guilty of violating this Ordinance may not be issued a permit for a two-year period from the date of the violation. Upon second offense, the person, organization, business or entity found guilty of violating this Ordinance shall be banned from further solicitation or canvassing in the City of Reading.

E. The City Solicitor shall be authorized to seek injunctive relief and other relief in a court of competent jurisdiction if necessary to effectuate the intent of this Ordinance. The City of Reading shall be entitled to seek civil fines in the amounts specified above and shall be entitled to its attorney's fees for any successful action.

SECTION 6-807. EXEMPTIONS

This Chapter shall not apply to recognized youth organizations including school sponsored clubs; canvassing conducted by political candidates for public office, their workers or representatives from political parties; solicitation of donations by mail, either the solicitation of money or canvassing, as otherwise defined herein, from personal acquaintances of the person engaging in the activity, persons who solicit for or on behalf of religious organizations, or in pursuit of religious beliefs and activities. A permit is not required for any solicitation or canvassing activity sponsored or conducted by City of Reading or its departments and agencies, nor by any municipality or government agency in the City, such as fire-fighter or police department fundraisers or other similar collections.

SECTION 6-808. SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid.

SECTION 6-809 REPEALER

This Ordinance repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this Ordinance, in which case that ordinance or resolution shall control.

RESOLUTION

WHEREAS, the Alice Army Reserve Center is located entirely within the City Limits of Alice, Texas, Jim Wells County, Texas, and

WHEREAS, the successful reuse of the Alice Army Reserve Center will require sound community planning to encourage optimal reuse of this closing military facility, including analyses of every facet of the facility's operations, thorough examination of current market conditions, and future market opportunities, and assessments of local community impacts and opportunities; and

WHEREAS, the development of a base reuse plan will materially contribute to the orderly economic adjustment of the Alice community to the consequences of facility closure;

NOW, THEREFORE, in furtherance of this, we do hereby establish a Local Redevelopment Authority to be called, the "Alice Local Redevelopment Authority". Section One Section Two

Section 1: The Alice Local Redevelopment Authority shall be composed of eight members, eight of whom shall be voting members. The voting members shall be as follows: Mayor Grace Saenz-Lopez (Chair); Mayor Pro Tern Juan Rodriguez, Jr. (Co-Chair); Fidel R. Rul, Jr.; John Burris; County Judge L. Amoldo Saenz; City Manager Pete Anaya, P .E.; David Silva and Margot Rios.

Section 2: The Alice Local Redevelopment Authority shall serve as an advisor)' planning body, whose recommendations will be considered for adoption as official policy by the City Council of Alice, Texas.

Section 3: The Alice Local Redevelopment Authority will adopt the reuse plan and submit it to the Secretary of the Department of Defense, and tile Secretary of the Department of Housing and Urban Development for approval, pursuant to federal law.

Section 4: The Alice Local Redevelopment Authority will have the responsibility for overseeing the development of an official reuse plan for the Alice Army Reserve Center. and it will present the final reuse plan to the City of Alice.

PASSED AND APPROVED this the 27th day of Mar~J1';/2006.

J4 May

./

~

, " .f

,

"""" ~ \, ""

.., ,

";-")- ~. , ~hall, ity Clerk ~::::~ 200